

STATEMENT OF
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“Internal Revenue Service Return Preparer Review”

September 2, 2009

On behalf of J. Russell George, the Treasury Inspector General for Tax Administration, I would like to thank Commissioner Shulman for the opportunity to participate in this Public Forum on the IRS’s Tax Return Preparer Review.

The Treasury Inspector General for Tax Administration (TIGTA) was established in January 1999 in accordance with the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 to provide independent oversight of IRS activities. TIGTA promotes the economy, efficiency, and effectiveness in the administration of the Internal Revenue laws. It is also committed to the prevention and detection of fraud, waste, and abuse within the IRS.

TIGTA’s Office of Audit and Office of Investigations both play vital roles in the government’s oversight of the tax preparer community.

As part of TIGTA’s statutory requirement to provide independent and objective oversight of the IRS, our Office of Audit periodically reviews the IRS’s oversight of preparers. Since July 2008, TIGTA has issued four reports regarding tax preparers. These reports addressed the return preparer program,¹ the accuracy of tax returns prepared by a sample of unenrolled preparers,² the process taxpayers must use to report complaints against tax return preparers,³ and the IRS’s ability to identify and track paid preparers.⁴

TIGTA’s Office of Investigations also has a significant role in the oversight of the tax preparer community. Our Office of Investigations is charged with investigating attempts to impede the administration of the Internal Revenue laws. This responsibility extends to investigations of alleged criminal impropriety involving tax preparers.

The Office of Investigations routinely investigates tax return preparers who engage in schemes to defraud their clients and the government, such as:

- Preparers who overstate their qualifications – for example, those who falsely claim to be licensed attorneys, certified public accountants or enrolled agents.
- Preparers who steal clients’ tax payments or tax refunds.

- Preparers who impersonate IRS employees or misuse the IRS seal or logo.

These are all activities that damage the reputation of the tax preparation industry as well as the overall integrity of tax administration. TIGTA will work closely with the IRS as it enforces any new laws and regulations put in place to ensure appropriate oversight of paid tax preparers and to address fraud and misconduct in the tax preparer community.

Standards and Improved Oversight Are Needed

The current lack of national standards for tax return preparers is cause for concern. Unqualified or unethical tax return preparers can cause enormous damage to the Federal tax system, to taxpayers and to the tax preparer community as a whole.

During the 2008 filing season, TIGTA found that a majority of tax returns prepared by a sample of unenrolled preparers contained substantial errors. TIGTA auditors posed as taxpayers in a large metropolitan area and paid to have 28 tax returns prepared at 12 commercial chains and 16 small, independently owned tax return preparation offices. The preparers in our sample were unlicensed and unenrolled.

TIGTA found that these preparers made substantial errors when completing tax returns and correctly prepared only thirty-nine percent of the returns. Of the sixty-one percent of the returns that were prepared incorrectly, sixty-five percent contained mistakes and omissions that were considered to have been caused by human error or misinterpretation of the tax laws. The remaining thirty-five percent contained misstatements and omissions that were considered to have been caused by willful or reckless conduct.

In addition, the Internal Revenue Code requires all preparers to be diligent in determining taxpayer eligibility for the Earned Income Tax Credit, sign the tax return, furnish their identification number on the tax return, and not improperly or recklessly disclose tax return information. However, none of the preparers in our sample exercised due diligence when determining whether our auditors were eligible to receive the Earned Income Tax Credit. Several preparers did not furnish the required identification numbers on the completed tax returns and/or did not sign the tax returns.

Furthermore, none of the preparers were able to prepare the business income and expense tax returns correctly. All preparers in our sample used commercial tax preparation software to prepare the tax returns.

While a system of national standards for training and testing would not have prevented all of the problems we encountered, such a system could help to reduce the number of inaccurate returns.

The IRS's experience with its volunteer sites provides some indication as to the benefits of using appropriate uniform standards. Over time, with increased emphasis on training, testing, and other tools, the accuracy rates at these sites have improved substantially. Based on our testing, the accuracy rate at volunteer sites has improved from zero in 2004 to 59 percent in 2009. However, the overall effect on tax administration would be much

greater with increased emphasis on improving the accuracy of paid preparers, since 86.9 million tax returns are prepared by paid preparers compared to the 3.5 million returns prepared by volunteers (in 2008).

A Single Identification Number Should Be Required

Since 2006, TIGTA has recommended that the IRS require the use of a single Federal identification number for paid preparers and practitioners to improve the accuracy of its records and avoid duplicate information. To accomplish this, we recommended that it consider expanding the use of the Preparer Tax Identification Number (PTIN), which is used to uniquely identify tax return preparers. In July 2009, TIGTA reiterated its call for the use of unique Federal identification numbers in an audit report, which found that inadequate data on paid preparers impedes effective oversight by the IRS.

Test results from a statistical sample of 139 preparers demonstrated many of the challenges the IRS would face in attempting to identify the population of preparers. For example, multiple identifying numbers were used by 63 percent of the preparers in the sample—that is, preparers would use one identifying number, such as their Social Security Number, on certain returns they prepared for a fee and a different identifying number, such as their PTIN, on others returns prepared that same year. Certain preparers were found to have used their Employer Identification Numbers instead of their Social Security Numbers or PTINs when identifying themselves on returns. Additionally, six percent of the preparers could not be identified at all because the identifying numbers they provided were invalid.

Data on preparers are decentralized among more than 20 different IRS systems that are not integrated, and there currently are no data standards among these systems to easily match preparer information. The names of the 139 preparers in various IRS systems were inconsistent 45 percent of the time.

A unique identifying number for each preparer along with an effective management information system are necessary in order for the IRS to facilitate tax administration and provide effective oversight of preparers. Requiring that all preparers use a unique identifying number would allow the IRS, for example, to use the PTIN application process to identify the population of preparers. Additionally, appropriate audit trails should be established for filings by paid preparers using a single identifying number that could illuminate potential abuse by individual preparers of certain IRS programs, such as the Earned Income Tax Credit.

Responsibility for Oversight

In the IRS's Tax Return Preparer Review Public Forum on July 30, 2009, a number of panelists recommended that the Office of Professional Responsibility oversight responsibilities be extended to include unlicensed tax return preparers. We believe that this recommendation has merit.

Multiple offices and functions handle taxpayer complaints against preparers and complaints are generally not controlled and tracked. The IRS cannot determine how

many complaints against tax return preparers it receives, how many complaints are investigated, and the total number of multiple complaints filed against a specific preparer or firm. As a result, the IRS is not able to evaluate such data in order to understand the root causes of taxpayer problems, identify areas of noncompliance and address procedures that need improvement.

In addition to improved guidance and tracking, the IRS needs to ensure that responsibility for oversight is well-coordinated and consolidated where possible. If the IRS implements new standards and requirements for paid preparers, one function within the IRS should have primary responsibility for overseeing implementation and compliance with those standards.

Thank you for the opportunity to participate on this panel, and I look forward to any questions that you might have.

¹ ***While Documentation Was Not Available to Fully Assess the Return Preparer Program, Identification and Processing of Preparer Penalties Can Be Improved*** (Reference Number 2008-30-147, dated July 29, 2008).

² ***Most Tax Returns Prepared by a Limited Sample of Unenrolled Preparers Contained Significant Errors*** (Reference Number 2008-40-171, dated September 3, 2008).

³ ***Inadequate Data on Paid Preparers Impedes Effective Oversight*** (Reference Number 2009-40-098, dated July 14, 2009).

⁴ ***The Process Taxpayers Must Use to Report Complaints Against Tax Return Preparers Is Ineffective and Causes Unnecessary Taxpayer Burden*** (Reference Number 2009-40-032, dated February 24, 2009).